

**JAN 17 2006****NOT FOR PUBLICATION****UNITED STATES COURT OF APPEALS****CATHY A. CATTERSON, CLERK**  
**U.S. COURT OF APPEALS****FOR THE NINTH CIRCUIT****UNITED STATES OF AMERICA,****Plaintiff - Appellee,****v.****RONALD HOLMES,****Defendant - Appellant.****No. 03-50316****D.C. No. CR-98-01025-RMT-1****MEMORANDUM\***

**Appeal from the United States District Court  
for the Central District of California  
Robert M. Takasugi, District Judge, Presiding**

**Submitted January 9, 2006\*\***

**Before: HUG, O'SCANNLAIN, and SILVERMAN, Circuit Judges.**

Ronald Holmes appeals from the sentence imposed, following remand for re-sentencing, after his guilty plea conviction for conspiracy to manufacture and distribute methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) and 846.

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

\*\* This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Because Holmes was sentenced under the then-mandatory Sentencing Guidelines, and we cannot reliably determine from the record whether the sentence imposed would have been materially different had the district court known that the Guidelines were advisory, we remand to the sentencing court to answer that question, and to proceed pursuant to *United States v. Ameline*, 409 F.3d 1073, 1084 (9th Cir. 2005) (en banc). *See United States v. Moreno-Hernandez*, 419 F.3d 906, 916 (9th Cir. 2005) (extending *Ameline*'s limited remand procedure to cases involving non-constitutional error under *United States v. Booker*, 543 U.S. 220 (2005)).

**REMANDED.**